IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 2272 of 2005

Between:

K. Mallareddy, S/o.K.Venkatreddy, Senior Inspector,
(under Suspension), Coop.Department, Karimnagar Town and Dist.

R/o 10-4-30/1, Arepally Road, Behind H.P. Gas Godown,

Karimnagar.

..... PETITIONER

AND

1. The District Collector and Dist. Magistrate, Karimnagar.
2. The Joint Collector, Dist. Level Scrutiny Committee, Karimnagar.
3. The Commissioner for Co-operation and Registrar of Coop. societies,

A.P., Gruhakalpa, Hyderabad.
4. The Dist. Co-operative officer, Karimnagar.
5. The District Co-operative Audit officer, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a direction, writ or order, one in the nature of certiorari; a) calling for the proceedings dt.7-1-2005 bearing No.C4/3984/ 95 and also consequential notification dt.7-1-2005 bearing No. C4/3984/95 issued by the Respondent No.1 canceling the petitioner's caste certificate issued by the Tahsildar, Karimnagar dt.11-8-76 bearing No.A6/10657/76 showing the petitioner as 'Hill Reddy' and the same may be quashed as illegal and arbitrary; b) directing the authorities to treat the petitioner as 'Hill Reddy' which is a scheduled Tribe; c) granting all consequential benefits as admissible under the said ST category including costs. d) awarding costs;

Counsel for the Petitioner: MR.M.RAMA RAO

Counsel for the Respondents: 1 & 2: G.P. for Social Welfare

Counsel for the Respondents 3 to 5:GP FOR COOPERATION

The Court at the admission stage made the following:

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ORDER:

Challenging the action of the first respondent in issuing the orders in CV/3984/95, dated 07.01.2005 and also consequential notification bearing No.C4/3984/95, dated 07.01.2005 canceling the community certificate of the petitioner, the present writ petition is filed.

2. The District Level Scrutiny Committee conducted an enquiry with regard to the social status of the petitioner and submitted a report to the District Collector. The District Collector by virtue of the powers conferred under Section 5(1) of 16 of 1993 A.P. (SCs, STs and BCs) Regulation of Issue of Community Certificates Act, 1993 read with Rule 9(7) of A.P. (SCs, STs & BCs) issue of community, Nativity and Date of Birth Certificates Rules, 1997 cancelled the caste certificate of the petitioner issued by the Tahsildar, Karimnagar vide certificate No: A6/10657/76, dated 11.08.1976 and also ordered for prosecution.

3. The learned counsel for the petitioner contended that without issuing any show cause notice to the petitioner, the first respondent has passed the impugned proceedings, and, therefore, it is contrary to the Section 5(1) of the Act, and, therefore, it is liable to be set aside.

4. On the other hand, the learned Government Pleader for Social Welfare opposed the same on the ground that the first respondent District Collector, Karimnagar, passed the order basing on the report submitted by the District Level Scrutiny Committee, therefore, there are no grounds to interfere with the impugned proceedings.

5. As seen from the proceedings of the District Collector, after receipt of report from the District Level Scrutiny Committee, the District Collector has not issued any show cause notice as contemplated under Section-5(1) of 16 of 1993 A.P. (SCs, STs and BCs) Regulation of Issue of Community Certificates

Act, 1993 and rules, 1997, which reads as follows:

> "Where, before or after the commencement of this Act a person not belonging to any of the Scheduled Castes, Scheduled Tribes or Backward Classes has obtained a false Community Certificate to the effect that either himself or his children belongs to such Castes, Tribes or Classes, the District Collector may either suo motu or on a written complaint by any person, call for the record and enquire into the correctness of such certificate and if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate after giving the person concerned an opportunity of making a representation."

A perusal of the above provision, makes it clear that before canceling the certificate, a reasonable opportunity should have been given to the petitioner, therefore, the first respondent is completely ignored this provision which is mandatory and the District Collector, Karimnagar, cancelled the certificate without giving opportunity to the person concerned, and, thus the impugned proceedings is suffered from serious legal infirmities.

7. Hence, the impugned proceedings is set aside and the matter is remitted back to the first respondent to take appropriate decision after affording a reasonable opportunity to the petitioner for making a representation. After filing of such representation by the petitioner, the same shall have to be considered and opportunity should be afforded to the petitioner and take appropriate decision in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. It is also made clear that the first respondent shall furnish copies of the documents, which were relied upon by the District Level Scrutiny Committee before taking any action.

8. Accordingly, with the above observation, the writ petition is disposed of at the admission stage. No costs.

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(K.C. BHANU, J)

Date: 11.02.2005.

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector and Dist. Magistrate, Karimnagar.
2. The Joint Collector, Dist. Level Scrutiny Committee, Karimnagar.
3. The Commissioner for Co-operation and Registrar of Coop. societies,

A.P., Gruhakalpa, Hyderabad.
4. The Dist. Co-operative officer, Karimnagar.
5. The District Co-operative Audit officer, Karimnagar.

6. Two C. Cs to G.P. for Social Welfare, High Court Buildings,

Hyderabad (OUT).

7. 2 CD copies

8. 2 C. Cs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

9. 2 C. Cs to G.P. for Cooperation, High Court Buildings, Hyderabad (OUT).

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